IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

OP.No. 37549 of 2002(T)

PETITIONER:

K.A.NOWSHAD, S/O. K.M.ABDUL KHADER,
HANDLING & TRANSPORTING CONTRACTOR,
KIZHAKKETHIL HOUSE, KUNNANAM P.O., KOTTAYAM.

BY ADV. SRI.GEORGE JACOB (JOSE)

RESPONDENTS:
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1. THE FOOD CORPORATION OF INDIA,
HEAD OFFICE 16-20 BARAKHANBU LANE,
NEW DELHI-110 001, REPRESENTED BY
MANAGING DIRECTOR.

2. THE ZONAL MANAGER,
ZONAL OFFICE, FOOD CORPORATION OF INDIA,
CHENNAI-6.

3. THE SENIOR REGIONAL MANAGER,
FOOD CORPORATION OF INDIA, KASAVADASAPURAM,
THIRUVANANTHAPURAM-4.

4. THE DISTRICT MANAGER,
FOOD CORPORATION OF INDIA DISTRICT OFFICE,
CHANNANIKADU.P.O.,
KOTTAYAM – 686 533.

5. THE DISTRICT MANAGER,
FOOD CORPORATION OF INDIA DISTRICT OFFICE,
WEST HILL,
CALICUT – 5.

BY ADV. SRI.P.JACOB VARGHESE, SC, FCI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 37549/2002

ORDER ON CMP NO. 63449/2002 IN O.P.No. 37549/2002

DISMISSED.

15/03/2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE TENDER DATED 10/5/1999 PERTAINING TO THE ROUTE CHINGAVANAM FSD TO ARAKULAM FSD PRESCRIBING THE TERMS AND CONDITIONS.

P2 : COPY OF THE LETTER DATED 21/12/2001 ISSUED FROM THE 3RD RESPONDENT.

P3 : COPY OF THE SUPPLEMENTARY BILL NO. 12/1999-2001 DATED 02/01/2001 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.

P4 : COPY OF THE SUPPLEMENTARY BILL DATED 20/1/2001 FOR Rs. 68,714/-.

P5 : COPY OF THE CONSOLIDATED STATEMENT ISSUED BY THE PETITIONER TO THE 4TH RESPONDENT.

P6 : COPY OF THE CONSOLIDATED STATEMENT FOR THE CONTRACT PERIOD 25/10/1999 TO 24/10/2001.

P7 : COPY OF THE CONSOLIDATED STATEMENT FOR THE CONTRACT PERIOD 25/10/1999 TO 24/10/2001.

P8 : COPY OF THE LETTER DATED 06/06/2000 TO THE DISTRICT MANAGER, ARAKULAM SENT BY THE PETITIONER.

P9 : COPY OF THE LETTER DATED 07/10/2002 SENT BY THE 4TH RESPONDENT TO THE DISTRICT SUPPLY OFFICER, KOTTAYAM.

P10 : COPY OF THE LETTER SENT BY THE PETITIONER DATED 12/5/2000 TO THE 4TH RESPONDENT.

P11 : COPY OF THE LETTER RECEIVED from the 4TH RESPONDENT DATED 20/7/2002 TO THE PETITIONER.

P12 : COPY OF THE COMMUNICATION FROM THE 4TH RESPONDENT TO THE PETITIONER DATED 11/9/2002.

P13 : COPY OF THE COMMUNICATION DATED 31/8/2002 OF THE ASST. MANAGER.

P14 : COPY OF THE LETTER OF THE PETITIONER TO THE 4TH RESPONDENT DATED 18/9/2002.

O.P.No. 37549/2002

P15 : COPY OF THE LETTER OF THE PETITIONER DATED 28/9/2002 TO THE 3RD RESPONDENT.

P16 : COPY OF THE LETTER OF THE PETITIONER TO THE 3RD RESPONDENT DATED 01/10/2002.

P17 : COPY OF THE REPRESENTATION DATED 23/11/2002 TO RESPONDENTS 1 TO 4.

P18 : COPY OF THE COMMUNICATION RECEIVED FROM THE 5TH RESPONDENT DATED 17/8/2002 TO THE PETITIONER.

P19 : COPY OF THE STATEMENT SHOWING THE DETAILS OF THE TRANSIT LOSS INCURRED.

P20 : COPY OF THE LETTER SENT BY THE PETITIONER TO THE 5TH RESPONDENT DATED 28/11/2002.

P21 : COPY OF THE ORDER DATED 06/11/2002 ISSUED BY THE 4TH RESPONDENT.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 37549 of 2002 T

Dated, this the 15th day of March, 2007

J U D G M E N T

Petitioner is challenging demand of loss sustained by Food Corporation of India for loss of goods in transit in excess of permissible limits. Admittedly, tender provides for allowance of loss in transit of food grains upto 0.25%. The difference demanded is the value of goods short delivered by the petitioner who was engaged as transport contractor for transport of food grains. Even though, learned counsel for the petitioner contended that loss is not attributable to the petitioner, I do not find any scope for interference in this case because loss claimed is in excess of permissible limits. Since the petitioner is requested to remit only the differential loss in excess of permissible limits and petitioner has accepted the same at the time of agreement, petitioner has no right to challenge the demand. In the circumstance, OP is devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg